

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH
COMPANY SCHEME PETITION NO. 357 OF 2017
CONNECTED WITH
COMPANY SCHEME APPLICATION NO. 4 OF 2017
FILTRA CATALYSTS AND CHEMICALS LIMITED
....Petitioner/ the First Transferor Company

AND
BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH
COMPANY SCHEME PETITION NO. 358 OF 2017
CONNECTED WITH
COMPANY SCHEME APPLICATION NO. 5 OF 2017
SUDHA ORGANICS PRIVATE LIMITED
....Petitioner/ the Second Transferor Company

AND
BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH
COMPANY SCHEME PETITION NO. 359 OF 2017
CONNECTED WITH
COMPANY SCHEME APPLICATION NO. 6 OF 2017
PERFECT SCALES COMPANY PRIVATE LIMITED
....Petitioner/ the Third Transferor Company

AND
BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH
COMPANY SCHEME PETITION NO. 360 OF 2017
CONNECTED WITH
COMPANY SCHEME APPLICATION NO. 7 OF 2017
DORF KETAL SPECIALITY CATALYST PRIVATE LIMITED
....Petitioner/ the Fourth Transferor Company

AND
BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH
COMPANY SCHEME PETITION NO. 361 OF 2017
CONNECTED WITH
COMPANY SCHEME APPLICATION NO. 8 OF 2017
DORF-KETAL CHEMICALS INDIA PRIVATE LIMITED
....Petitioner/ the Transferee Company

In the matter of the Companies Act, 2013 (18 of 2013);

AND

In the matter of Sections 391 to 394 of the Companies Act, 1956 and other relevant provisions of the Companies Act, 1956 along with the Companies Act, 2013.

AND

In the matter of Sections 230 to 232 of the Companies Act, 2013 and other relevant provisions of the Companies Act, 2013 along with the Companies Act, 1956.

AND

In the matter of Scheme of Amalgamation of FILTRA CATALYSTS AND CHEMICALS LIMITED, the First Transferor Company and SUDHA ORGANICS PRIVATE LIMITED, the Second Transferor Company and PERFECT SCALES COMPANY PRIVATE LIMITED, the Third Transferor Company and DORF KETAL SPECIALITY CATALYST PRIVATE LIMITED, the Fourth Transferor Company with DORF-KETAL CHEMICALS INDIA PRIVATE LIMITED, the Transferee Company.

Called for hearing

Mr. Rajesh Shah with Mr. Ahmed M Chunawala i/b M/s. Rajesh Shah & Co., Advocate for the Petitioner.

Coram: Ms. Ina Malhotra, Hon'ble Member (J)

Date: 20th June, 2017

MINUTES OF THE ORDER

1. Heard learned counsel for parties. No objector has come before this Tribunal to oppose the Scheme and nor has any party controverted any averments made in the Petitions to the Scheme of Amalgamation of FILTRA CATALYSTS AND CHEMICALS LIMITED, the First Transferor Company and SUDHA ORGANICS PRIVATE LIMITED, the Second Transferor Company and PERFECT SCALES COMPANY PRIVATE LIMITED, the Third Transferor Company and DORF KETAL SPECIALITY CATALYST PRIVATE LIMITED, the Fourth Transferor Company with DORF-KETAL CHEMICALS INDIA PRIVATE LIMITED, the Transferee Company.

2. The sanction of the Tribunal is sought under Sections 391 to 394 of the Companies Act, 1956 and Sections 230 to 232 of the Companies Act, 2013 to a Scheme of Amalgamation of FILTRA CATALYSTS AND CHEMICALS LIMITED, the First Transferor Company and SUDHA ORGANICS PRIVATE LIMITED, the Second Transferor Company and PERFECT SCALES COMPANY PRIVATE LIMITED, the Third Transferor Company and DORF KETAL SPECIALITY CATALYST PRIVATE LIMITED, the Fourth Transferor Company with DORF-KETAL CHEMICALS INDIA PRIVATE LIMITED, the Transferee Company.

3. The Petitioner Companies have approved the said Scheme of Amalgamation by passing the Board Resolutions which are annexed to the respective Company Scheme Petitions.
4. The Learned Advocate appearing on behalf of the Petitioners states that the Petitions have been filed in consonance with the order passed in their Company Scheme Application Nos. 4 of 2017, 5 of 2017, 6 of 2017, 7 of 2017 and 8 of 2017 of the National Company Law Tribunal.
5. The Learned Advocate appearing on behalf of the Petitioners further states that the Petitioner Companies have complied with all requirements as per direction of the National Company Law Tribunal, Mumbai Bench and they have filed necessary affidavits of compliance in the National Company Law Tribunal, Mumbai Bench. Moreover, Petitioner Companies undertake to comply with all the statutory requirements if any, as required under the Companies Act, 1956/2013 and the Rules made there under whichever is applicable. The said undertaking is accepted.
6. The Learned Counsel for the Petitioners states that the First Transferor Company at present is in the business of Manufacturing and dealing in all kinds of Chemicals and the Second Transferor Company at present is in the business of Manufacturing and dealing in all Organic and Inorganic Chemicals and the Third Transferor Company at present is in the business of weights and weighing scales, measuring instruments, building materials and engineering goods and the Fourth Transferor Company at present is in the

business of Manufacturing and dealing in all kinds of Chemicals and the Transferee Company is in the business of Manufacturing and dealing in all kinds of Chemicals and weights & weighing scales, measuring instruments, building materials and engineering goods. As per the opinion of the management the amalgamation will enable the transferee company to consolidate the businesses and lead to synergies in operations and create a stronger financial base and it would be advantageous to combine the activities and operations of all companies into a single Company for synergistic linkages and the benefit of combined financial resources and this will be reflected in the profitability of the Transferee Company and that the amalgamation will result in significant reduction in the multiplicity of legal and regulatory compliances required at present to be carried out by the Transferor Companies and the Transferee Company.

7. The Regional Director has filed a Report on 12th day of June, 2017 stating therein, save and except as stated in paragraph IV, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph IV of the said Report, the Regional Director has stated that:-

“IV. The observations of the Regional Director on the proposed Scheme to be considered by the Hon’ble NCLT are as under:

1. *The tax implication if any arising out of the scheme is subject to final decision of Income Tax Authorities. The approval of the scheme by this Hon’ble Tribunal may not deter the Income Tax Authority to scrutinize the tax return filed by the transferee company after giving effect to the scheme. The decision of the Income Tax Authority is binding on the petitioner Company.*

2. *Certificate by the Company's Auditor stating that the accounting treatment if any proposed in the scheme of compromise or arrangement is in conformity with the accounting standards prescribed under section 133 of the Companies Act, 2013 is not available.*

In this regard it is requested that the Petitioner has to undertake to submit the same.

3. *The Petitioners have not submitted the proof of serving Notice, upon Income Tax Authorities for comments.*

In this regard petitioner companies has to undertake to serve notice u/s 230(5) before the Income Tax Authorities and Regional Director, WR.

4. *Minutes of order is not provided along with application.*

In this regard companies undertake to submit the same.

8. So far as the observation in paragraph IV (a) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the Petitioner Company undertakes to comply with all applicable provisions of the Income-tax Act and all tax issues arising out of the Scheme of Amalgamation will be met and answered in accordance with law.

9. As far as the observation in paragraph IV (b) of the report of Regional Director is concerned, the learned Counsel for the Petitioner Companies submits that the Petitioner Company have already submitted the certificate from auditor of the Company in terms of the proviso to section 232(3) of the Companies Act, 2013 with the Regional Director vide their letter dated 15th June, 2017.

10. As far as the observation in paragraph IV (c) and (d) of the report of Regional Director is concerned, the learned Counsel for the Petitioner Companies submits that the Petitioner Company have filed the Affidavit of Service and Minutes of the Order with the NCLT and Regional Director vide their letter dated 15th June, 2017.
11. The observations made by the Regional Director have been explained by the Petitioner Companies in Para 8 to 10 above. The clarifications and undertakings given by the Petitioner Companies are accepted.
12. The Official Liquidator has filed his report on 10th April, 2017 in the Company Scheme Petition Nos. 357 to 361 of 2017 inter alia, stating therein that the affairs of the Transferor Companies have been conducted in a proper manner and that the Transferor Companies may be ordered to be dissolved by this Tribunal.
13. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.
14. Since all the requisite statutory compliances have been fulfilled, Company Petition Nos. 357 to 360 of 2017 is made absolute in terms of prayers clause (a) to (d) and 361 of 2017 is made absolute in terms of prayer clauses (a) to (c).
15. Petitioners are directed to lodge a copy of this order along with a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically along with E-Form INC-28, in addition to physical copy, as per the relevant provisions of the Companies Act 1956 / 2013.

16. The Petitioner Companies to lodge a copy of this order and the Scheme duly certified by the Deputy Registrar, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty payable within 60 days from the date of receipt of the order, if any.
17. The Petitioner Companies to pay costs of Rs.25,000/- each to the Regional Director, Western Region, Mumbai and the Petitioner in the Company Petition Nos. 357 to 360 of 2017 to pay costs of Rs.25,000/- to the Official Liquidator, High Court, Bombay. Cost to be paid within four weeks from the date of receipt of the Order.
18. All concerned regulatory authorities to act on a copy of this order along with Scheme duly authenticated by the Deputy Registrar, National Company Law Tribunal, Mumbai.

sd/-
Ina Malhotra, Member (J)